

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMAL GARDNER,

Petitioner,

v.

FEDERAL BUREAU OF PRISONS,

Respondent.

CASE NO. 2:24-cv-01413-JCC-GJL

ORDER FOR SERVICE AND
RETURN, § 2241 PETITION

Petitioner Jamal Gardner, proceeding *pro se*, has filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Dkt. 1. Petitioner has paid the filing fee. *See id.* The Court, having reviewed the Petition, hereby **ORDERS** as follows:

(1) Respondent

Petitioner has named the Federal Bureau of Prisons (“BOP”) and Warden, Federal Detention Center, SeaTac (“FDC Sea Tac”), as Respondents for this action. However, the proper respondent for § 2241 petitions is “the person who has custody over [the petitioner].” *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004) (citing 28 U.S.C. §§ 2242, 2243). At the outset of this action, Petitioner represented he was detained at FDC SeaTac, making the warden of that facility the “person who has custody” over Petitioner.

1 Accordingly, the Clerk of Court is **DIRECTED** to **STRIKE** BOP as a Respondent in this
2 action. The Warden of the Federal Detention Center at SeaTac, Washington, remains the
3 Respondent in this action. The Clerk is also **DIRECTED** to **UPDATE** the case title.

4 (2) Service

5 If not previously accomplished, electronic posting of this Order and Petitioner's § 2241
6 habeas petition shall effect service upon the United States Attorney of the Petition and all
7 supporting documents. Service upon the United States Attorney is deemed to be service upon the
8 named Respondents.

9 (3) Return

10 **Within 30 days of the date this Order is posted**, Respondent shall show cause why a
11 writ of habeas corpus should not be granted by filing a Return as provided in 28 U.S.C. § 2243.
12 As a part of such Return, Respondent shall submit a memorandum of authorities in support of
13 their position, and should state whether an evidentiary hearing is necessary. Respondent shall file
14 the Return with the Clerk of the Court and shall serve a copy upon Petitioner.

15 The Return will be treated in accordance with LCR 7. Accordingly, on the face of the
16 Return, Respondent shall note it for consideration no earlier than 28 days after filing. Petitioner
17 may file and serve a response not later than 21 days after the filing date of the Return, and
18 Respondent may file and serve a reply brief not later than 28 days after the return is filed.

19 (4) Filing by Parties, Generally

20 All attorneys admitted to practice before this Court are required to file documents
21 electronically via the Court's CM/ECF system. All non-attorneys, such as *pro se* parties and/or
22 prisoners, may continue to file a paper original with the Clerk. All filings must indicate in the
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1 upper right-hand corner the name of the United States Magistrate Judge to whom the document
2 is directed.

3 For any party filing electronically, when the total of all pages of a filing exceeds fifty
4 (50) pages in length, a paper copy of the document (with tabs or other organizing aids as
5 necessary) shall be delivered to the Clerk's Office for chambers. The chambers copy must be
6 clearly marked with the words "Courtesy Copy of Electronic Filing for Chambers." Any
7 document filed with the Court must be accompanied by proof that it has been served upon all
8 parties that have entered a notice of appearance in the underlying matter.

9 (5) Motions

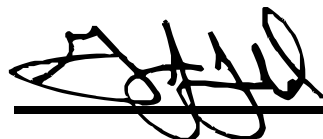
10 Any request for court action shall be set forth in a motion, properly filed and served.
11 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a
12 part of the motion itself and not in a separate document. The motion shall include in its caption
13 (immediately below the title of the motion) a designation of the date the motion is to be noted for
14 consideration on the Court's motion calendar.

15 (6) Direct Communications with District Judge or Magistrate Judge

16 No direct communication is to take place with the District Judge or Magistrate Judge with
17 regard to this case. All relevant information and papers are to be directed to the Clerk.

18 The Clerk is **DIRECTED** to send copies of this Order to Petitioner and to the Honorable
19 John C. Coughenour.

20 Dated this 1st day of October, 2024.

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23 Grady J. Leupold
24 United States Magistrate Judge